

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of
Olivier J. Poncelet

INKJET RECORDING ELEMENT

Serial No. 10/521,898
Filed January 14, 2005

Group Art Unit: 1794

Examiner: David J. Joy

Mail Stop APPEAL BRIEF - PATENTS
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPELLANTS' REPLY BRIEF

This Reply Brief is necessitated by several “new points of argument” in the Examiner’s Answer mailed November 12, 2009.

In the “Response to Arguments” section (10) of the Examiner’s Answer, in response to Appellant’s explanation that use of a hybrid aluminosilicate polymer obtained from silicon compounds having non-hydrolyzable substituents is clearly not taught or suggested by either of Liu et al or Poncelet et al., the Examiner argues that Poncelet “teaches the use of a hybrid, organic/inorganic composite aluminosilicate polymer in the image-receiving layers and products having these layers applied thereon.” Such argument represents clear error, as while Poncelet et al. discloses an organic/inorganic composite product, such composite product does not comprise a hybrid aluminosilicate polymer itself, obtained from silicon compounds having non-hydrolyzable substituents as taught and claimed in the present invention, but rather Poncelet teaches composites of polymeric alumino-silicate (prepared from silicon compounds having only hydrolysable substituents) formed in situ in an organic polymeric matrix. Further, there does not appear to be any support for the allegation that such materials of Poncelet are taught for use “in the image-receiving layer”, as Poncelet rather appears to teach use of such materials in an antistatic layer of a

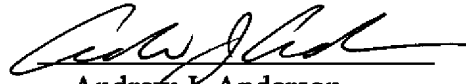
photographic element. Consequently, despite the Examiner's allegations, the combined teachings of Liu and Poncelet clearly do not in any way teach a product that "matches" that which is presently claimed.

The further arguments presented in the "Response to Argument" section continue to represent clear error to the extent they are similarly predicated on the repeated incorrect assertion that Poncelet teaches a hybrid aluminosilicate polymer "encompassed" by the polymer that is presently claimed. Again, as neither Poncelet nor Liu teaches use of a silicon compound having a non-hydrolyzable substituent in the preparation of the described aluminosilicate polymers, the resulting aluminosilicate polymers actually prepared in such references are clearly distinct from the claimed hybrid aluminosilicate polymers which are prepared from silicon compounds having a non-hydrolyzable substituent. Where the method of making sets forth specific requirements for the use of materials which will necessarily impact the composition of the resulting made product as in the present claimed invention, it is clear error to essentially dismiss the method requirements as being "non pertinent" as has been done by the Examiner.

Regarding the Examiner's further assertions at page 9 of the answer that Poncelet is a "reasonably pertinent reference" because it teaches application of a hybrid organic/inorganic composite aluminosilicate polymer into "all types of photographic coating layers and photographic products", such assertion again incorrectly asserts that Poncelet teaches a hybrid aluminosilicate polymer, and further provides no explanation as to why use of the materials of Poncelet in an antistatic layer of a photographic element (which is the actual teaching of Poncelet) would teach or suggest use of such materials in an ink-receiving layer of an ink jet recording element. While both of a photographic element and an ink jet recording element may be classified as "imaging elements", the Examiner's mere statement of such classification provides no reason to employ materials from an antistatic layer of the one into an ink-receiving layer of the other. In any event, as has been explained, even if the materials of Poncelet were to be employed in the element of Liu, the present invention still would not be obtained as the materials of Poncelet are not hybrid aluminosilicate polymers as are required by the present claimed invention.

For these reasons, as well as those presented in Appellants' Brief, Appellants respectfully submit that the Final Rejection is in error, and they request its reversal by the Honorable Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew J. Anderson', written over a horizontal line.

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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.